

Message Text

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ACTION L-03

INFO OCT-01 ARA-06 IO-13 ISO-00 EB-07 TRSE-00 COME-00

JUSE-00 OPIC-03 OMB-01 SSO-00 NSCE-00 USIE-00 INRE-00

CIAE-00 DODE-00 PM-04 H-02 INR-07 NSAE-00 NSC-05

PA-01 PRS-01 SP-02 SS-15 /071 W
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O R 301155Z JUL 76

FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 1560

AMEMBASSY BRASILIA IMMEDIATE

AMEMBASSY LIMA IMMEDIATE

INFO USMISSION USUN NEW YORK

C O N F I D E N T I A L GENEVA 6134

LIMA AND BRASILIA PASS ASSISTANT SECRETARY LEWIS FROM
MYERSON

E.O. 11652: GDS

TAGS: ECOSOC, EGEN, PFOR, PGOV

SUBJ: 61ST ECOSOC: US PROPOSAL ON ILLICIT PAYMENTS

REF: BRASILIA 6664

1. REFTTEL IS MOST TIMELY. WE OFFICIALLY CIRCULATED THE
US PROPOSAL ON ILLICIT PAYMENTS ON JULY 29 AND WILL MAKE
INTRODUCTORY STATEMENT IN ECONOMIC COMMITTEE TODAY, JULY 30.

G-77, WITH BRAZIL PLAYING A MOJOR ROLE, HAS MET AND DRAFTED
INFORMAL AMENDMENTS WHICH ARE NOT ACCEPTABLE, IN PARTI-
CULAR (A) WIDENING THE TERMS OF REFERENCE OF THE WORKING
GROUP TO INCLUDE ALL "CORRUPT PRACTICES" AND (B) LIMITING
THE EXERCISE, IN EFFECT, TO A STUDY WITHOUT A COMMITMENT
TO TRY TO DRAFT AN AGREEMENT. WE HOPE TO BE MEETING WITH
THE G-77 AND OTHERS IN A FORMAL OR INFORMAL CONTACT GROUP
IN AN ATTEMPT TO WORK OUT A CONSENSUS. ALTHOUGH OUR
RESOLUTION HAS BEEN PUT ON THE TABLE, WE ARE KEEPING OPEN

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THE OPTION OF NOT PROCEEDING TO A VOTE IF WASHINGTON

SHOULD SO DECIDE.

2. WHILE THE BRAZILIAN DELEGATION HAS BLOWN HOT AND COLD IN GENEVA (PERHAPS FOR TACTICAL REASONS), OTHERS HAVE CONFIRMED TO US THAT THEY HAVE BEEN ESSENTIALLY NEGATIVE WITHIN THE G-77 CAUCUS. WE NEVER GOT CONFIRMATION THAT GOB LOBBIED IN CAPITALS, BUT THEY HAVE BEEN VERY ACTIVE HERE. THE BRAZILIANS HAVE JUST TOLD US DIRECTLY THAT OVERNIGHT THEY HAVE RECEIVED HARD, NEGATIVE INSTRUCTIONS.

3. WE ARE NOT CERTAIN JUST WHAT THE LOCAL NEGOTIATING SITUATION WILL BE BY THE TIME ASSISTANT SECRETARY LEWIS MEETS WITH GOB OFFICIALS. BUT, IN THE HOPE THAT IT WILL NOT BE TOO LATE, MYERSON URGES A STRONG REITERATION OF OUR VIEWS. EVEN IF TOO LATE TO AFFECT THE GENEVA SITUATION, A FURTHER FRANK DISCUSSION OF OUR DIFFERENCES ON THIS MATTER SEEMS INDICATED. USDEL APPRECIATES EMBASSY BRASILIA'S INTEREST AND EFFORTS.

4. TRANSMITTED BELOW IS THE TEXT OF OUR PROPOSAL AS IT WAS FORMALLY CIRCULATED:

QUOTE

TRANSNATIONAL CORPORATIONS

UNITED STATES OF AMERICA: DRAFT RESOLUTION

ILLICIT PAYMENTS IN INTERNATIONAL COMMERCIAL
TRANSACTIONS

THE ECONOMIC AND SOCIAL COUNCIL,

RECALLING GENERAL ASSEMBLY RESOLUTION 3514 (XXX) OF 15 DECEMBER 1975, WHICH, INTER ALIA, CONDEMNED ALL CORRUPT PRACTICES, INCLUDING BRIBERY, BY TRANSNATIONAL AND OTHER CORPORATIONS, THEIR INTERMEDIARIES AND OTHERS INVOLVED, IN VIOLATION OF THE LAWS AND REGULATIONS OF THE HOST COUNTRIES, AND CALLED UPON ALL GOVERNMENTS TO EXCHANGE INFORMATION AND UPON HOME GOVERNMENTS TO CO-OPERATE WITH
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GOVERNMENTS OF THE HOST COUNTRIES TO PREVENT CORRUPT PRACTICES, INCLUDING BRIBERY,

NOTING THE DECISION OF THE COMMISSION ON TRANSNATIONAL CORPORATIONS AT ITS SECOND SESSION TO FORWARD TO THE COUNCIL A PROPOSAL (NOTE 1: REPORT OF THE COMMISSION ON ITS SECOND SESSION, OFFICIAL RECORDS OF THE ECONOMIC AND SOCIAL COUNCIL, SIXTY-FIRST SESSION, SUPPLEMENT NO. 5

(E/5782 AND ADD.1-3) PARA. 37, AND ANNEX VI, PARA. 4.)

FOR AN INTERNATIONAL AGREEMENT TO ESTABLISH CERTAIN STANDARDS AND PROCEDURES RELATIVE TO INTERNATIONAL TRADE AND INVESTMENT TRANSACTIONS WITH GOVERNMENTS WITH THE OBJECT OF ELIMINATING CORRUPT PRACTICES IN THESE AREAS,

NOTING FURTHER THE COMMISSION'S RECOMMENDATION THAT THE COUNCIL CONSIDER THE MATTER OF CORRUPT PRACTICES ON A PRIORITY BASIS AND TAKE APPROPRIATE ACTION AT ITS SIXTY-FIRST SESSION, (NOTE 2: IBID.),

AFFIRMING THAT CONSIDERATION AND ACTION BY THE COUNCIL REGARDING THE MATTER OF CORRUPT PRACTICES SHOULD IN NO WAY INTERFERE WITH OR DELAY PRIORITY ACTION BY THE COMMISSION IN DEVELOPING A CODE OF CONDUCT,

DECIDES:

(A) TO ESTABLISH A HIGH LEVEL INTERGOVERNMENTAL AD HOC COMMITTEE OF EXPERTS TO CONDUCT AN EXAMINATION OF THE PROBLEM OF ILLICIT PAYMENTS AND TO STUDY THE CONTENTS AND SCOPE OF A DRAFT AGREEMENT ON MEASURES TO COMBAT ILLICIT PAYMENTS TO GOVERNMENT OFFICIALS IN CONNEXION WITH INTERNATIONAL COMMERCIAL TRANSACTIONS WITH A VIEW TO ELABORATING BY THE MIDDLE OF 1977 A PRELIMINARY DRAFT OF SUCH AN AGREEMENT;

(B) THAT THE AD HOC COMMITTEE SHALL BE COMPOSED OF 18 MEMBERS ELECTED BY THE ECONOMIC AND SOCIAL COUNCIL ON A BROAD AND REPRESENTATIVE GEOGRAPHICAL BASIS;

(C) THAT THE AD HOC COMMITTEE SHALL MEET IN 1976 AND AS NECESSARY IN 1977, THE SESSIONS TO BE LONG ENOUGH TO
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PERMIT THE COMPLETION OF ITS TASK;

(D) THAT THE CENTRE ON TRANSNATIONAL CORPORATIONS SHALL PROVIDE THE AD HOC COMMITTEE WITH SUCH SUPPORT AND ASSISTANCE AS THE AD HOC COMMITTEE MAY REQUIRE TO COMPLETE ITS TASK;

REQUESTS OTHER UNITED NATIONS AGENCIES AND BODIES, ESPECIALLY THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, TO RENDER SUCH ASSISTANCE TO THE AD HOC COMMITTEE AS IT MAY REQUEST;

DECIDES FURTHER:

(A) THAT THE AD HOC COMMITTEE SHALL SUBMIT TO THE COUNCIL

AT ITS SIXTY-THIRD SESSION OF THE COUNCIL A REPORT CONTAINING THE RESULTS OF THE AD HOC COMMITTEE'S WORK PURSUANT TO PARAGRAPH 1 ABOVE;

(B) TO REVIEW THE AFOREMENTIONED REPORT AT ITS SIXTY-THIRD SESSION AND TO FORWARD, IF POSSIBLE, A FINAL TEXT OF THE AGREEMENT TO THE GENERAL ASSEMBLY WITH THE RECOMMENDATION THAT THE ASSEMBLY AT ITS THIRTY-SECOND SESSION TAKE ALL DECISIONS AND ACTIONS NECESSARY FOR THE OPENING FOR SIGNATURE OF A CONVENTION ON MEASURES TO COMBAT ILLICIT PAYMENTS TO GOVERNMENT OFFICIALS IN CONNEXION WITH INTERNATIONAL COMMERCIAL TRANSACTIONS.

UNQUOTE.ABRAMS

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